

General Information Letter: A trust may use the address of a beneficiary's attorney on Form IL-1041 Schedule D rather than the beneficiary's home address.

June 13, 2005

Dear:

This is in response to your letter dated October 5, 2004, in which you request advice. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is [www.revenue.state.il.us/legalinformation/regs/part1200](http://www.revenue.state.il.us/legalinformation/regs/part1200).

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state as follows:

I am a New York attorney representing Ms. Z, a resident of California, who is a beneficiary of the LIVING TRUST, an Illinois trust.

For complex personal reasons, Ms. Z does not wish to make her address known to the Trustee, Mr. Y. I have written to Mr. Y and supplied him with Ms. Z's Social Security number and my office address. Mr. Y has expressed concern about the requirement of filing the form 'IL-1041 Schedule D Beneficiaries.' He has asked me to obtain a statement from the Illinois Department of Revenue indicating that it will be acceptable for him to file that form with Ms. Z's name and Social Security number but with my office address.

Although he is now liquidating the late Mrs. Y's Trust (and has paid shares to all other beneficiaries) Trustee Y will not pay Ms. Z's share until he is assured that the Illinois Department of Revenue will accept the 'IL-1041 Schedule D' executed as I have described above.

I will be happy to supply Ms. Z's Social Security Number and actual address *directly* to the Illinois Department of Revenue.

May I ask for advice on how I should proceed in this matter?

Lorraine Lathan, Manager of our Processing Bureau regarding trust returns, advises me that her unit will accept a Schedule D to Form IL-1041 which lists your client's name in care of your mailing address. In Legal's opinion, the better practice would be to append to the return/Schedule D a Power of Attorney form designating you as attorney and signed by your client, but Ms. Lathan advises me that a Power of Attorney is not mandatory for acceptance and processing of the return. Please be

advised however that, absent an attached Power of Attorney, the Department's acceptance of an IL-1041 with Schedule D showing Ms. Z's name above your address does not constitute formal acknowledgement of your attorney-client relationship. Furthermore, acceptance of the return with or without a Power of Attorney has no bearing upon the propriety of the Trustee issuing payment of Ms. Z's share to your office as legal counsel.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely yours,

Jackson E. Donley,  
Senior Counsel-Income Tax